

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

JOHANZ X. SANTOS, ppa, DENISE	)	C.A. NO.: 03-cv-12210-MAP
COLON, Individually, JESUS SANTOS,	)	
Plaintiffs	)	
	)	
VS.	)	
	)	
BOB'S DISCOUNT FURNITURE,	)	
REGENT HOME DELIVERY,	)	
AGNILIZ ACOSTAS, RAUL SANTOS,	)	
Defendants	)	

**MOTION OF THE DEFENDANT, BOB'S DISCOUNT FURNITURE, TO RECONSIDER**

Now comes the Defendant, Bob's Discount Furniture, and moves that the Court reconsider its Order of 12/8/04 denying the Defendant's Motion for Leave to File a Counterclaim and states the following as reasons therefor:

1. Counsel for this Defendant did not file the original Answer in this matter. Counsel does not believe that at the time that the Answer was filed the attorney then representing this Defendant had sufficient knowledge of the facts of this case so as to form a good faith belief that a Counterclaim was appropriate.
2. The case was transferred to this Court in the summer of 2004. Counsel for the Defendant did not appear in the case until September 20<sup>th</sup> of 2004 and at that time there had been no discovery done or minimal discovery done by the parties.
3. It was not until the deposition of the Co-Defendants, Agniliz Acostas and Raul Santos, were taken on October 29<sup>th</sup>, 2004 that this Defendant had any good faith reason to believe or know that the minor child was left unsupervised without parental supervision or other

adult supervision in a highly congested area in the City of Springfield. The Defendant still does not have the deposition transcripts of these two Co-Defendants.

4. The Defendant did not receive automatic disclosure from the Plaintiff until October 28<sup>th</sup>, 2004 so the Plaintiff should not be hurting claiming delay for it was certainly tardy in making its required disclosures.

5. Within a month of taking the depositions of the Co-Defendants this Defendant moved for leave to amend setting forth the Counterclaim requested.

6. The Plaintiff has not demonstrated nor can they any type of prejudice to them for filing the Counterclaim late. Justice and fairness should allow the filing of the Counterclaim.

7. The Plaintiff states that the Defendant had not pursued this defense but the Defendant states that it has filed extensive requests for production of documents and interrogatories to the Plaintiff which are still unanswered.

WHEREFORE, the Defendant, Bob's Discount Furniture, moves that the Court reconsider its order of 12/8/04 and allow it file its Counterclaim late.

THE DEFENDANT,  
BOB'S DISCOUNT FURNITURE  
By Its Attorney

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